

**Caseflow Management  
Meeting Minutes  
August 8, 2016  
10:00 AM – 12:00 PM  
Pioneer Room, Judicial Wing, State Capitol Building**

**Present**

Ms. Absey, Rebecca  
Ms. Jean Delaney  
Mr. Jake Rodenbiker, via GoTo  
Ms. Darcie Einarson, via GoTo  
The Honorable Dann Greenwood, via GoTo  
The Honorable Jay Greenwood, via GoTo  
Ms. Sally Holewa  
The Honorable Jon Jensen, via GoTo  
The Honorable Steven Marquart, via GoTo  
The Honorable David Nelson  
The Honorable Justice Daniel J. Crothers  
Ms. Carolyn Probst  
The Honorable Allan Schmalenberger (Caseflow Management Committee, Chair)  
The Honorable Jay Schmitz  
The Honorable Robin Schmidt (Standards and Practices Sub-Committee, Chair)  
The Honorable Dale Thompson  
Ms. Donna Wunderlich (Technology Sub-Committee, Chair)

**National Center for State Courts (NCSC)**

Patti Tobias  
Nial Raaen

**Staff**

Mr. Scott Johnson  
Ms. Kelly Hutton  
Mr. Larry Zubke  
Mr. Jeffrey Stillwell  
Ms. Cammie Schock  
Ms. Lee Ann Barnhardt (Education Sub-Committee, Chair)  
Ms. Kim Dockter

Judge Schmalenberger called the meeting to order.

**Minutes**

A motion was made by Justice Crothers, seconded by Hon. Jay Schmitz to approve the March 4, 2016 meeting minutes. The motion was approved.

## **2. Review of Progress on the Workplan** (Judge Schmalenberger / Nial Raaen, Project Lead, National Center for State Courts & Scott Johnson)

Discussion was led by Judge Schmalenberger regarding the overview of the progress of work plan. He noted that we are on schedule and believe we are going to meet the goals of the charter, work plan and meetings of the sub-committees.

Judge Schmalenberger called on Nial Raaen and Patti Tobias to discuss their view of progress by the NCSC. Nial Raaen discussed working of the numerous subgroups and their progress as well as information regarding templates that the NCSC's can provide for case flow plan as well as the suggestions to amendments to Administrative Rule (AR) 12.

Patti Tobias discussed a timely and recent report entitled *Call to Action: Achieving Civil Justice for All*. The report and recommendations are from the Conference of Chief Justices' Civil Justice Improvements Committee. Ms. Tobias reviewed the main highlights its relation to the discussions held during the meeting. Judge Schmalenberger asked for further information on how these recommendations related to the development of the model time standards. Ms. Tobias advised that the recommendations will mostly come into play as plans are developed to apply the time standards.

Judge Schmalenberger discussed the history of the development of caseflow plans in preparation for this project.

## **3. Review of Disposition Data via Current Docket Currency Standards** (Patti Tobias, NCSC & Nial Raaen NCSC, Jeff Stillwell & Scott Johnson)

Judge Schmalenberger called upon Scott Johnson to discuss the current disposition data via current docket currency standards. Scott Johnson discussed current docket currency standards and the initial meetings with Jeff Stillwell, Donna Wunderlich and Kelly Hutton. Kelly Hutton did a presentation of the current standards and the group summary statistics.

## **4. Subcommittee Assignments/Reports**

### **Standards and Practice Sub-Committee**

Judge Schmalenberger called on Judge Robin Schmidt to discuss the standards and practice sub-committee progress.

Judge Schmidt discussed the proposed time standard report and called upon Patti Tobias to discuss the model time standards and the reasoning for creation of the percentage breakdowns in lieu of having one set time standard for each case type. Judge Schmidt discussed her reasoning for preferring the percentage breakdown to have an understanding as to how she is doing with her caseload.

Judge Schmidt further discussed the breakdown of cases and how the group separated out felonies and misdemeanors as well as decreasing the timelines for family cases. Judge Schmidt then discussed the breakdown of the case groups. Scott Johnson mentioned that the naming and grouping is also based on the case category breakdown in our weighted caseload studies. Judge Schmidt further discussed reasoning for case category breakdowns including post-conviction relief.

Judge Schmidt discussed the methodology for proposed North Dakota time frames.

- Family Cases reduced to 1 year in lieu of 2 years to better serve families. (Mediation Time Frame Impact on case disposition.)
- Post Conviction Relief case type added to address current extended disposition times.

She further discussed case categories definitions and believes that they are in line with the above-mentioned Civil Justice Initiative and clarified case placement. The proposed North Dakota time frame information was presented today for review and is open up for suggestions.

Sally Holewa posed the questions of what the initial reaction in the meeting was to the idea of utilizing percentages.

Judge Schmalenberger asked if anyone had a comment on 100% versus 98%.

Kelly Hutton presented and explained the methodology when configuring the percentage statistics.

Sally Holewa asked for committee members' view of differentiated case standards vs. new standards. Ms. Tobias shared that we could debate either way regarding 98% vs. 100% clearance. Judge Nelson asked what is the consequence when the %100 clearance rate is not achieved. Judge Nelson is ok with 100% goal, but worried what would happen. Nial Raaen felt that the criteria for 99% vs 100% is the same; that the 99% recognizes that there are exceptions, 100% would satisfy public need, and noted these parameters are recommendations. In response to Judge Nelson's question, Judge Schmidt reviewed the draft changes within AR12 and noted the judge may request to waive the AR12 time standard. Judge Schmidt reiterated that the proposal contains suggested goals. The goals are to be more efficient and better serve the public.

Judge Schmidt discussed "good cause" in AR12. Judge Schmalenberger reviewed the proposed case groups and time standards summary by year to explain that these numbers were reviewed to assist in our proposal for amendments to the current time standards.

Patti Tobias discussed how she would like a chance to compare the model time standards, with current time standards, with the proposed time standards and provide an analysis along with providing additional information on possible barriers to these goals and what we can do to achieve them. Patti Tobias discussed the possibility of setting some of these goals as "temporary" so there aren't immediate consequences until the goals can be tested and verified as being appropriate.

Judge Schmitz discussed family mediation and its effect not as a barrier but a consideration.

Judge Schmidt further discussed development of our standards based on the statistical analysis.

Sally Holewa discussed the importance of 100% or at least accountability of the balance of the 2%. Sally Holewa felt that it is important to have a goal and deadline out there to provide service to public and to provide a tool to assist judges move cases along. Judge Schmalenberger agreed that the public would like the 100% for accountability.

Judge Schmalenberger asked if we were including juvenile cases. Sally Holewa responded a reference paragraph would be added to follow the juvenile policy board standards.

Patti Tobias asked and volunteered to review Policy 409 – Juvenile and Model Time Standards. Patti Tobias discussed the juvenile time standards and their comparison to the model time standards. This will allow the group to assess any discrepancies or variances.

E-mail comments on proposed time-standards to Judge Schmidt. Ms. Tobias volunteered to consolidate responses for committee. We need discussion to justify proposed time-standards, i.e., why are we longer than the Model Time Standards in civil cases? Patti to research.

Judge Schmidt advised the committee that the Standards and Practice Sub-Committee have completely reviewed options and are ready to receive comments from the full committee.

### **Administrative Rule 12**

Judge Schmidt discussed the proposed amendments to AR12. Judge Schmidt brought attention to the proposed certification process by judicial officers to their respective presiding judge and to explain any cases outside the time standards. Judge Schmidt discussed the importance of accountability.

Scott Johnson discussed the application of a similar process in Wisconsin and highlighted that in his experience there request for exceptions by judicial officers was infrequent.

Judge Schmidt also discussed the change in reporting periods to a quarterly process and how this will be made easier and less time intensive as time goes on with the possibility of dashboards. Patti Tobias added that the 100% case completion standard should be applied to the dashboard statistical information. She further advised that the workgroup should experiment with technology, complete interim testing and review results for best way to do this.

Ms. Tobias noted that AR12 may need to clarify that the review process will only be of those cases that are beyond the 100% timeline standard. She further discussed that there may need to be a review the laborious nature of current data collection, analysis and documentation.

Donna Wunderlich posed the question as to what the NCSC is seeing as far as data collection nationwide. Patti Tobias responded that she has not seen any other States go to the extent North

Dakota does with judicial review. Nail Raaen added that over-due cases typically handled at court administration level.

Patti Tobias and Nial Raaen discussed the review process is generally seen on a regional level and does not moving much higher for review most often being resolved at an administrative level.

Judge Schmidt pointed out that the Presiding Judge “may” send the cases to the review board.

Sally Holewa further discussed the issues between reviewing twice a year versus quarterly and the data would be more accurate and manageable if it was done quarterly.

Justice Crothers discussed the importance of clarifying the rule to include what dates we are using for the “start date” of the time period. Further discussion was held regarding using the start date as it is the first opportunity that the judge has to intervene in a case.

### **Technology**

Judge Schmalenberger called on Donna Wunderlich to report for the technology subcommittee. Donna Wunderlich called on Kelly Hutton to explain the Odyssey report spreadsheet to the committee. Kelly Hutton presented the details of the Odyssey reports. Scott Johnson stressed that Odyssey reports require extensive manipulation that could be operationalized to maximize the full use of available technology while minimizing additional manual manipulation. Donna emphasized that data entry complexities (time clocks) affect report accuracy.

Cammie Schock discussed the roll out for the MyOdyssey and that it is currently out for testing.

Jeff Stillwell discussed the two options of utilizing the widgets and capabilities that Odyssey provides for us and the option of creating an outside website. There are limits to both.

Donna Wunderlich discussed the other dashboard examples that were provided by Nial Raaen.

Sally Holewa discussed why it is important implement judge dashboard to quickly view caseflow status of cases.

Donna Wunderlich, using Nial Raaen’s dashboard information discussed how North Dakota courts could utilize Odyssey with a judge dashboard. Ms. Wunderlich reviewed a handout demonstrating MyOdyssey functionality. She then asked Cammie Schock about timelines associated with work-flow through the My Odyssey “task manager”. Ms. Schock advised that Tyler Technologies would need to put ND workflows together along with a cost analysis. Additionally, Ms. Schock was asked to provide MyOdyssey test access and training to the Judges who are on the Caseflow Management Committee.

Dashboard concepts were discussed. Judge Schmidt explained how she uses four Odysseys to manage and work through her caseload, i.e., court calendar, list manager, find a case. Jeff Stillwell discussed IT staff “dashboard” concepts.

Sally Holewa discussed judges’ requirement to work “outside” of Odyssey and stressed that they should be able to jump in and out of the applications with limited barriers to obstruct functionality.

## **Education**

Judge Schmalenberger called on Lee Ann Barnhardt to report on the education sub-committee. Ms. Barnhardt discussed options for training by position or training by unit. Ms. Barnhardt further discussed a continuous requirement for training on data entry as well as the use of time clocks etc. Judge Schmalenberger discussed the possible need for continuing judge training in Odyssey. Judge Nelson discussed how he had picked up “tips and tricks” from numerous other judges and how we can capture these ideas. Ms. Barnhardt reviewed time available during the next Judicial Conference that could be utilized to train on Odyssey or allow the judges to provide input on what will be in dashboard.

## **5. Other Business/Next Meeting – November 4<sup>th</sup> in Bismarck & via *Go To Meeting***

Judge Schmalenberger

Judge Schmalenberger discussed next meeting.

Sally Holewa expressed her concerns on the mass clean up and that the court administrators need to get together and planning out how this will all be implemented. Scott Johnson said the mass clean up issue will be added to the TCAP agenda.

Judge Schmalenberger asked -- what’s next? He discussed how he believes we will be able to propose timelines and begin discussing what should be included in the time standards. We will also be finalizing ideas and proposals for education. After discussion, Judge Schmalenberger focused the Committee and its Workgroup on the following action items:

- Review and determine what date starts the case (i.e., file date) and add to AR 12
- Propose final draft of proposed time standards and finalize the revisions to AR12
- Technology: Review and bring dashboard recommendations (i.e., pros and cons)
- Education: Review and bring recommendations on how we are going to sell changes and dashboard training plan.
- Model Plan

The next meeting is scheduled for Friday, November 4, 2016, in person (Bismarck) and via “GoToMeeting”. The meeting was adjourned at 12:10 PM.